

## **ARTICLE 18**

### **PERSONNEL FILES**

#### **Section A. General.**

There shall be only one official personnel file maintained by the Department or at a facility for each employee. Where the official file is maintained at a facility, the Department shall have the right to maintain a copy at the central office. Where dual files are kept, the information concerning discipline and job performance in each shall be identical. In no event shall an employee's medical file or grievance forms and/or decisions be contained in his/her personnel file.

For purposes of this Article notes kept by a supervisor shall not be considered a personnel file. Such notes shall be kept in a confidential manner and shall be considered the property of the maker of such notes. A supervisor may place such notes in the employee's personnel file only if the employee has been given a copy of such notes. However, supervisory notes not kept in the employee's personnel file shall not be used in any personnel transaction or disciplinary action against the employee.

#### **Section B. Access.**

Access to individual personnel files shall be restricted to authorized management personnel, the employee and/or the Union representative when authorized in writing by the employee. An employee shall have the right, upon request, to review his/her personnel file and may be accompanied by a Union representative if he/she so desires. In the Department of Education, employees may make a written request to the Central Personnel Office to review their files. Such files will be made available for the employees' review at their worksite within five (5) calendar days of receipt by the central personnel office. Nothing shall alter the current practice of the employee personally reviewing, or the Union representative reviewing the file at a mutually agreed time at the central personnel office. Upon request, the employer shall make copies of documents in a personnel file and furnish such copies to the employee.

#### **Section C. Employee Notification.**

A copy of any disciplinary action or material related to employee performance which is placed in the personnel file shall be provided to the employee (the employee so noting receipt, or the supervisor noting failure of the employee to acknowledge receipt) or sent by certified mail (return receipt requested) to the employee's last address appearing on the Employer's records.

If an employee disagrees with information contained in the personnel file, removal or correction of the information may be mutually agreed upon by the Agency Personnel Officer and the employee. If such an agreement cannot be reached, the employee may grieve and/or submit a written statement explaining his/her position which will become a part of the file for the same period of time as the disputed material.

#### **Section D. Non-Job Related Information.**

Information not related to the employment relationship shall not be placed in an employee's personnel file without the employee's consent.

#### **Section E. Time Limits.**

Except for records relating to disciplinary action for substantiated abuse or neglect of residents or recipients, records of disciplinary actions/interim service ratings shall be removed from an employee's file twenty-four (24) months, excluding unpaid suspensions and leaves of absence, following the date on which the action was taken or the rating issued, provided that no new disciplinary action/interim service rating has occurred during such twenty-four (24) month period. Written reprimand/counseling memoranda shall similarly be removed twelve (12) months, excluding unpaid suspensions and leaves of absence, following the date of issuance provided no new written reprimand/counseling memoranda has been issued during such twelve (12) month period. The provisions of this Section shall not be construed to mean that the Employer must remove such records at the expiration of the time limits mentioned above. Records which have become "dated" shall not be used for anything. Nothing in this Section is intended to preclude the use of records, even if "dated", as a defense in Civil Rights litigation. Such records shall be removed at the written request of the employee or at the time the Personnel Officer becomes aware that such "dated" records are still in an employee's file. These provisions shall not prohibit the Employer from maintaining records of disciplinary action arising out of violations of prohibited practices as defined in the Civil Service Rules and Regulations.

"Substantiated" for the purpose of this Section shall mean disciplinary action not grieved or upheld in the grievance process in accordance with Article 9. Written reprimands for abuse or neglect shall be removed forty-eight (48) months following the date of issuance provided no new discipline for abuse or neglect has been issued during such forty-eight (48) month period.

Nothing in this Section shall preclude the Employer from removing such records from an employee's file prior to the above-cited time frames, upon mutual agreement with the affected employee.

#### **Section F. Employee History Record.**

The parties intend that disciplinary actions which are expunged in accordance with Article 18 shall be expunged from the computerized employee history record. However, the parties acknowledge the benefit of maintaining a seniority record which accurately reflects the actual hours worked by the employee. Therefore, where a disciplinary record is to be expunged, but the employee is not contractually entitled to be credited with service hours for the period of the disciplinary action, the Employer may enter a comment in the employee history record which notes the appropriate adjustment of the employee's hours for purposes of seniority.